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Attorney for DAVID ALCOCK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ALCOCK,

Defendant.

Case No. 2:21-cr-00162-TLN

SENTENCING MEMORANDUM

Dates: January 6, 2021

Time: 9:30 a.m.

Judge: Hon. Troy L. Nunley

Mr. David Alcock, by and through undersigned counsel, respectfully requests that the Court sentence him to 20 years (240 months) in prison, to be followed by a term of 20 years of supervised release. Mr. Alcock specifically requests that the Court recommend that he be designated to a facility where he can be housed in the BOP's "Residential Sex Offender Treatment Program" (located at USP Marion or FMC Devens). Mr. Alcock further agrees and submits to the \$4,000 restitution requested for the benefit of the victim known as Jenny described in the government's sentencing memorandum filed on December 30, 2021 (Dkt. 21).

Due to counsel's disrupted travel schedule over the holidays, counsel respectfully requests that this Court grant leave for the (one day) late filing of this memorandum. Government counsel graciously does not oppose the late filing of this memorandum and both parties are prepared to go forward with sentencing.

1 The Presentence Investigation Report (PSR) writer has presented this Court with
2 thorough relevant information that it should consider with respect to the sentencing guidelines as
3 well as the 18 U.S.C. 3553(a) factors, particularly with respect to Mr. Alcock's mental health
4 issues. Demonstrably, this is a man with psychiatric issues as evidenced by his observed
5 behaviors during his pretrial detention as well as the history reported by his mother-in-law who
6 has served as his legal guardian since his own mother passed away. The PSR outlines the
7 connections between Mr. Alcock's mentally unstable times and his criminal behavior in such a
8 manner that it is clear that 20 years of incarceration, psychiatric medication and treatment is an
9 appropriate and humane way to meet the goals of sentencing this 48-year-old man.

10 In addition to all of the material in the PSR, counsel does wish to emphasize Mr.
11 Alcock's very immediate confession to and cooperation with law enforcement. The Court
12 should also consider Mr. Alcock's willingness to resolve his cases in both state and federal court
13 in a manner that has saved not only resources, but anguish for the family of his victim who have
14 already been through so much trauma¹. Once he is sentenced in federal court he will resolve his
15 state court case and be sentenced to concurrent time that counsel understands will be subsumed
16 by the federal sentence. And of course, if Mr. Alcock is released from prison in his lifetime, he
17 will be on federal supervised release as well as state parole and will be required to register as a
18 sex offender.

19 Mr. Alcock had episodes during his pretrial incarceration where he was floridly psychotic
20 and unable to communicate with either his state public defender or undersigned counsel. In the
21 times where he was mentally stable with medication, he adamantly expressed a desire to fully
22 accept responsibility in both cases regardless of outcome. Mr. Alcock has never expressed a
23 desire for lenient sentencing. He views himself as evil and deserving of the worst. He believes,
24 sometimes irrationally, that his life is in God's hands and that the ultimate outcome will be
25 determined by God.

26 Fortunately, our justice system is not a system of retribution and while the acts he
27 committed bring a groundswell of emotion to any rational human being, this Court has the
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¹ The victim tragically died in a car accident during the pendency of this case.

1 demonstrated ability to set aside those emotions and weigh the statutory factors in light of the
 2 dictate to impose a sentence that is sufficient but not greater than necessary to meet the goals of
 3 sentencing in light of all of the factors, including Mr. Alcock's mental illness and being raised by
 4 a mentally ill mother.

5 A 20-year sentence could very well be a life sentence for Mr. Alcock, who is 48 years
 6 old, given the toll such medications like Depakote take on the liver and pancreas². Although the
 7 government's argument for a sentence of 292 months is rationally based upon the facts of the
 8 case, it does not address parsimony nor why an additional 4 years over the 20-year low end of
 9 the Rule 11(c)(1)(C) agreement is necessary to achieve the goals of sentencing. Incarcerating
 10 Mr. Alcock for 20 years is a parsimonious sentence. An additional 52 months does not add
 11 anything to achieving the goals of sentencing that will not already be achieved by a 20-year
 12 sentence.

13 Mr. Alcock has not had the benefit of the level of supervision provided by federal
 14 probation which is rigorous and specifically designed to protect the community. With the kind
 15 of supervision that will be provided after his incarceration that will include sex offender
 16 treatment, as well as his age, a sentence greater than 20 years is not necessary.

17 WHEREFORE, in light of all of the information before the Court, Mr. Alcock
 18 respectfully requests that this Court sentence him to 240 months in prison to be followed by a
 19 240 month term of supervised release.

20 DATED: December 31, 2021

Respectfully submitted,

21 HEATHER E. WILLIAMS
 22 Federal Defender

23 /s/ Lexi P. Negin
 24 LEXI P. NEGIN
 25 Assistant Federal Defender
 26 Attorney for David Alcock
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² According to Depakote's black box warning its risks include hepatotoxicity and pancreatitis